

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of THOMAS O. CRIST and DEPARTMENT OF THE ARMY,
LETTERKENNY ARMY DEPOT, Chambersburg, PA

*Docket No. 03-20; Submitted on the Record;
Issued February 3, 2003*

DECISION and ORDER

Before COLLEEN DUFFY KIKO, DAVID S. GERSON,
MICHAEL E. GROOM

The issue is whether appellant has established that he has greater than a 44 percent binaural hearing loss, for which he received a schedule award.

Appellant, a 65-year-old electrical equipment repairman, filed a claim for benefits on September 15, 2000, claiming that he sustained a hearing loss caused by factors of his employment and that he became aware that his injury was causally related to his employment on August 10, 2000.

On April 19, 2001 the Office of Workers' Compensation Programs referred appellant and a statement of accepted facts to Dr. Edward F. Sickel, a specialist in otolaryngology, for an audiologic and otologic evaluation of appellant.

In a report dated May 8, 2001, Dr. Sickel noted findings on audiological evaluation based on a May 8, 2001 audiogram. At the frequencies of 500, 1,000, 2,000 and 3,000 hertz, the following thresholds were reported: right ear -- 35, 45, 60 and 60 decibels: left ear -- 65, 70, 80 and 80 decibels. Based on these findings, Dr. Sickel concluded that appellant had a hearing loss of 37.5 percent in his right ear and a 18.75 percent loss in his left ear, which amounted to a 9 percent binaural hearing loss.

In a memorandum dated July 16, 2001, an Office medical adviser, relying on Dr. Sickel's audiogram results and calculations, determined that appellant had a 44 percent permanent binaural hearing loss.

On August 13, 2002 the Office granted appellant a schedule award for a 44 percent permanent binaural hearing loss for the period May 8, 2001 to January 13, 2003, for a total of 88 weeks of compensation.

The Board finds that appellant has not established that he has greater than a 44 percent permanent binaural hearing loss, for which he received a schedule award.

The schedule award provisions of the Federal Employees' Compensation Act provide for compensation to employees sustaining impairment from loss or loss of use of, specified members of the body.¹ The Act, however, does not specify the manner in which the percentage loss of a member shall be determined. The method used in making such a determination is a matter which rests in the sound discretion of the Office.² For consistent results and to ensure equal justice, the Board has authorized the use of a single set of tables so that there may be uniform standards applicable to all claimants. The American Medical Association, *Guides to the Evaluation of Permanent Impairment* has been adopted by the Office as a standard for evaluation of scheduled losses and the Board has concurred in such adoption.³

Under the A.M.A., *Guides*, hearing loss is evaluated by determining decibel loss at the frequency levels of 500, 1,000, 2,000 and 3,000 hertz. The losses at each frequency are added up and averaged and a "fence" of 25 decibels is deduced since, as the A.M.A., *Guides* points out, losses below 25 decibels result in no impairment in the ability to hear everyday speech in everyday conditions.⁴ Then the remaining amount is multiplied by 1.5 to arrive at the percentage loss of monaural loss. The binaural loss is determined by calculating the loss in each ear using the formula for monaural loss. The lesser loss is multiplied by five, then added to the greater loss and the total is divided by six to arrive at the amount of binaural hearing loss.⁵

In this case, the case was referred to an Office medical adviser to apply the Office's standardized procedures to the May 8, 2001 audiogram performed for Dr. Sickel. According to the Office's standardized procedures, testing of the right ear at frequency levels of 500, 1,000, 2,000 and 3,000 hertz revealed hearing losses of 35, 45, 60 and 60 decibels respectively. These decibels, totaled to 200 and divided by 4, obtained an average hearing loss at those cycles of 50 decibels. The average of 50 decibels, when reduced by 25 decibels (the first 25 decibels were discounted as discussed above), equals 25 decibels, which when multiplied by the established factor of 1.5 computes a 37.5 percent hearing loss in the right ear. Testing for the left ear at the frequency levels of 500, 1,000, 2,000 and 3,000 hertz revealed decibel losses of 65, 70, 80 and 80 respectively. These decibels amounted to 295, which, when divided by 4, obtains an average hearing loss at those cycles of 73.75 decibels. The average of 73.75 decibels, reduced by 25 decibels (the first 25 decibels were discounted as discussed above), equals 48.75, which when multiplied by the established factor of 1.5 amounts to a 73.125 percent hearing loss in the left ear. The Office medical adviser then multiplied the lesser loss of 37.5 percent in the right ear by five, added this figure to the greater loss of 73.125 and divided the total by 6 to arrive at a 44 percent binaural hearing loss.

The Board notes that the Office medical adviser properly used the applicable standards of the A.M.A., *Guides*, to determine that appellant has a 44 percent total binaural hearing loss

¹ 5 U.S.C. § 8107.

² *Danniel C. Goings*, 37 ECAB 781, 783 (1986); *Richard Beggs*, 28 ECAB 387, 390-391 (1977).

³ *See Luis Chapa, Jr.*, 41 ECAB 159, 167 (1989).

⁴ A.M.A., *Guides*, page 250 (5th ed. 2001).

⁵ *Id.* *See also Danniel C. Goings*, *supra* note 2.

causally related to his federal employment. The Board therefore affirms the August 13, 2002 Office decision finding that appellant is entitled to a schedule award of no greater than a 44 percent permanent binaural hearing loss.

The August 13, 2002 decision of the Office of Workers' Compensation Programs is hereby affirmed.

Dated, Washington, DC
February 3, 2003

Colleen Duffy Kiko
Member

David S. Gerson
Alternate Member

Michael E. Groom
Alternate Member